

Internal Revenue Service
memorandum

date: MAY 22 1991

to: Ogden Service Center
Attn: Beverly Sessions

from: Technical Assistant, Office of Assistant Chief Counsel
(Employee Benefits and Exempt Organizations)

subject: [REDACTED]

This is in response to your request for assistance with respect to the above-named taxpayer, concerning his submission of Form 4361, Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners.

According to the information submitted, the taxpayer first received ministerial income in excess of \$[REDACTED] in [REDACTED]. He timely filed a Form 4361 in [REDACTED]. In [REDACTED], the taxpayer requested that the processing of his application be stopped. In [REDACTED], the taxpayer again filed a Form 4361, this time in connection with a different church. In [REDACTED] of [REDACTED], the taxpayer requested that his application be processed. He received notification of the acceptance of his application in [REDACTED]. The taxpayer was informed that because he did not return the declaration letter requesting continued processing within the 90-day limit, his exemption would begin [REDACTED], since this was the date his declaration letter was received requesting continued processing of his application.

In your request for assistance, you ask two questions. First, you ask whether the taxpayer's exemption should begin at the time of the first earnings or at the date of the taxpayer's declaration to process his application ([REDACTED]). Second, you ask, if the taxpayer had changed his mind after the two year time limit to file, when would his exemption begin.

Attention is directed to the general instructions stated on the Form 4361 itself. According to the directions, if the declaration to continue processing is mailed after 90 days from the date the statement was mailed to the taxpayer, the exemption will not be effective until the date the signed copy is received by the Service Center. Accordingly, because the taxpayer in this case did not return his declaration within

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the 90-day limit and because the Service Center received it [REDACTED], his exemption is begins [REDACTED].

In answer to your second question, section 1.1402(e)-3A of the Income Tax Regulations states that an individual who desires an exemption from the tax on self-employment income with respect to service performed by him in his capacity as a minister or member of a religious order or as a Christian Science practitioner must file Form 4361 on or before whichever of the following dates is later: (i) the due date of the income tax return, including any extension thereof, for his second taxable year ending after 1967, or (ii) the due date of the income tax return, including any extension thereof, for his second taxable year beginning after 1953 for which he has net earnings from self-employment of \$400 or more. Because the taxpayer in this case first received income in excess of \$ [REDACTED] beginning in [REDACTED], he has two years from that date to file the exemption. Therefore, his Form 4361 cannot be considered after the two-year period.

For further information, we are enclosing a copy of Rev. Rul. 77-87, 1977-1 C.B. 266, which may be helpful in similar situations. If you have any questions concerning this matter, please contact Kathleen Edmondson or Philip Corn of my staff at FTS 566-4748.

(Signed) Ronald L. Moore

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Enclosure:

Rev. Rul. 77-87